

The Office Action at Page 3-4 rejected claims 16 and 28 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Regarding claim 16, the applicant respectfully amends the claim in the amendments as attached to removed the phrase “or the like”. Regarding claim 28, the applicant respectfully cancels the claim.

Accordingly the applicant respectfully submits that the 35 USC 112, second paragraph rejection for claim 16 has now been traversed and the rejection for claim 28 now rendered moot.

Response to all 102 and 103 Rejections based on US Pat No. 5,410,852 Edgar et al. (Edgar)

The Office Action at Page 4 rejected claim 28 under 35 U.S.C. 102(b) as being anticipated by US Pat No. 5,410,852 Edgar et al. (Edgar). The Office Action at Pages 5-8 also based all of the 35 U.S.C. 103(a) obviousness rejections for the remaining claims 14-16, 23-27 and 29 on Edgar: claims 14-16 and 23-25 were rejected as being obvious over Edgar, claims 26-27 were rejected as being obvious over Edgar in view of US Pat No. 5,230,189 Sourlis (Sourlis), and claim 29 was rejected as being obvious over Edgar in view of US Pat No. 6,401,394 Nozaki (Nozaki).

In response to all 102 and 103 rejections based on Edgar, the applicant respectfully disagrees with Office Action’s analysis of the teachings from Edgar in supporting all 102 and 103 rejections.

First the applicant respectfully notes that Figures 2, 2a and 2b in Edgar, the cross-sectional views of Figure 1, the figure relied on in the Office Action’s analysis of Edgar, clearly show the air barrier 28 to be in direct contact with the rainscreen panel 20 and show no clearance space as required in all pending claims 14-16 and 23-29. Hence it is the applicant’s position that the statement “a spacing member 22 adapted to provide a clearance space between the air barrier 28 and the rainscreen panel 20”, quoted several times in the Office Action to support all 102 and 103 rejections on the basis of Edgar, is incorrect.

Next the applicant respectfully notes the following sentence from Edgar at Col.3, 69 – Col. 4, 2:

“An insulation board 28 is then applied over the sheathing 18 to cover the area and is secured to the air barrier 20 by a suitable adhesive27...”. Accordingly the applicant respectfully notes this sentence in Edgar teaches securing the air barrier to the rainscreen panel using a “suitable adhesive”. This clearly teaches away from providing a clearance space between the air barrier and the rainscreen panel as claimed in all pending claims.

Accordingly the applicant respectfully submits that the 35 U.S.C. 103(a) obviousness rejections for claims 14-16, 23-27 and 29 are invalid, as the analysis of Edgar in Office Action is flawed. As claim 28 has been cancelled the 102 rejection of claim 28 based on Edgar is now rendered moot.

Response to Rejection of Claim 29 under 35 USC § 103

In addition to the above the applicant respectfully disagrees with the Office Action’s analysis of claim 29, which was rejected as being obvious over Edgar in view of Nozaki. It is the Applicant’s position that Edgar and Nozaki are nonanalogous art as defined under MPEP 2141.01(a) and therefore provide an insufficient basis for the finding of 103 obviousness of claim 29. The invention in claim 29 and Edgar both pertain to the exterior structure of a building, but Nozaki is a noise reduction invention used in the automobile industry (see Nozaki at Col 1, 61-63) about the mounting structure for a glass window. MPEP 2141.01(a) states that to support a 103 rejection the prior art must be analogous. Accordingly it is the applicant’s position that Nozaki is not analogous to Edgar and cannot be used to support a 103 obviousness rejection.

Conclusion

In response to the rejections contained in the Office Action, the Applicant has amended claim 16 and cancelled claim 28. Further the applicant respectfully disagrees with the analysis of the teachings of Edgar to support all 102 and 103 rejections, and the combination of nonanalogous art (Edgar and Nozaki) to support the 103 rejection of claim 29 under the arguments stated herein.

Accordingly the applicant respectfully submits that claims 14-16, 23-27 and 29 have now traversed all objections and rejections in the Office Action and are now in condition for allowance.

Respectfully Submitted,

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